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Attorneys for Federal Defendants and  
Defendant United States of America.

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CALIFORNIA COALITION FOR WOMEN  
PRISONERS; R.B.; A.H.R.; S.L.; J.L.; J.M.;  
G.M.; A.S.; and L.T., individuals on behalf of  
themselves and all others similarly situated,

CASE NO. 4:23-CV-04155-YGR

Plaintiffs  
v.

UNITED STATES OF AMERICA FEDERAL  
BUREAU OF PRISONS, a governmental entity;  
BUREAU OF PRISONS DIRECTOR  
COLETTE PETERS, in her official capacity;  
FCI DUBLIN WARDEN N.T. MCKINNEY, in  
her official capacity; OFFICER BELLHOUSE,  
in his individual capacity; OFFICER GACAD, in  
his individual capacity; OFFICER JONES, in his  
individual capacity; LIEUTENANT JONES, in  
her individual capacity; OFFICER LEWIS, in his  
individual capacity; OFFICER NUNLEY, in his  
individual capacity; OFFICER POOL, in his  
individual capacity; LIEUTENANT PUTNAM,  
in his individual capacity; OFFICER  
SERRANO, in his individual capacity;  
OFFICER SHIRLEY, in his individual capacity;  
OFFICER SMITH, in his individual capacity;  
and OFFICER VASQUEZ, in her individual  
capacity,

**UNITED STATES' ANSWER TO  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT**

Defendants.

Defendants United States of America, Colette Peters, in her official capacity, and N.T. McKinney, in her official capacity, hereby respond to Plaintiffs' first amended complaint (dkt. 152). The numbering below corresponds with the numbering in the first amended complaint.

1-2. The United States admits that through May 1, 2024, FCI Dublin housed female inmates in its low security prison and adjacent Satellite Camp, but denies the remaining allegations in paragraphs 1 and 2 of the first amended complaint.

3. The United States admits that computers used to access confidential reporting systems were located in common spaces at FCI Dublin and the adjacent Satellite Camp, but denies all remaining allegations in paragraph 3 of the first amended complaint.

4. The United States admits that the Permanent Subcommittee on Investigations issued a report in December 2022 (the Senate Report). The Senate Report has been reduced to writing and constitutes the best evidence of its contents. The United States denies all remaining allegations in paragraph 4 of the first amended complaint.

5. The United States admits that eight former FCI Dublin employees have been charged with various crimes related to sexual misconduct at the facility from 2019 to 2021, but lacks information sufficient to form a belief as to the truth of the remaining allegations in paragraph 5 of the first amended complaint and therefore denies them.

6. The United States admits that numerous civil actions have been filed against former FCI Dublin employees, but currently lacks information sufficient to form a belief as to the truth of the remaining allegations in paragraph 6 of the first amended complaint therefore denies them.

7-10. The United States denies the allegations in paragraphs 7 through 10 of the first amended complaint.

11. The United States denies the allegations in paragraph 11 of the first amended complaint.

12-13. Responding to the allegations in paragraphs 12 and 13 of the first amended complaint, the United States admits that federal district courts: have original jurisdiction over all civil actions arising under the Constitution; in a case of actual controversy within its jurisdiction, may declare the rights and other legal relations of any interested party seeking such declaration; have exclusive jurisdiction over claims brought against the United States under 28 U.S.C. § 1346(b) and §§ 2671 -80 (the Federal Tort

1 Claims Act), and admits that the FTCA provides a limited waiver of the United States' sovereign  
2 immunity when its employees are negligent in limited circumstances. But the United States denies  
3 Plaintiffs' have established jurisdiction in this case. The United States denies that venue is appropriate in  
4 this Court. Finally, the United States denies that 28 U.S.C. §§ 1332 or 1367(a) apply to claims brought  
5 under the FTCA.

6 14. The United States admits that the California Coalition for Women Prisoners (CCWP) is  
7 an organizational Plaintiff in this matter, but currently lacks information sufficient to form a belief as to  
8 the truth of the remaining allegations in paragraph 14 of the first amended complaint and therefore  
9 denies them.

10 15. The United States denies the allegations in paragraph 15 of the first amended complaint.

11 16. The United States currently lacks information sufficient to form a belief as to the truth of  
12 the allegations in paragraph 16 of the first amended complaint and therefore denies them.

13 17. The United States denies the allegations in paragraph 17 of the first amended complaint.

14 18. The United States currently lacks information sufficient to form a belief as to the truth of  
15 the allegations in paragraph 18 of the first amended complaint and therefore denies them.

16 19. The United States admits that Plaintiff R.B. was in the custody and control of BOP while  
17 incarcerated at FCI Dublin from 2013 to 2024, but currently lacks information sufficient to form a belief  
18 as to the truth of the remaining allegations in paragraph 19 of the first amended complaint and therefore  
19 denies them.

20 20. The United States admits that Plaintiff A.H.R. was in the custody and control of BOP  
21 while incarcerated at FCI Dublin from 2019 to 2024, and that he is a transgender man and uses he/him  
22 pronouns, but currently lacks information sufficient to form a belief as to the truth of the remaining  
23 allegations in paragraph 20 of the first amended complaint and therefore denies them.

24 21. The United States admits that Plaintiff S.L. was in the custody and control of BOP while  
25 incarcerated at FCI Dublin from 2016 to 2024, but currently lacks information sufficient to form a belief  
26 as to the truth of the remaining allegations in paragraph 21 of the first amended complaint and therefore  
27 denies them.

1           22.     The United States admits that Plaintiff J.L. was in the custody and control of BOP while  
2 incarcerated at FCI Dublin from 2020 to 2024, but currently lacks information sufficient to form a belief  
3 as to the truth of the remaining allegations in paragraph 22 of the first amended complaint and therefore  
4 denies them.

5           23.     The United States admits that Plaintiff J.M. was in the custody and control of BOP while  
6 incarcerated at FCI Dublin from 2018 to 2024, but currently lacks information sufficient to form a belief  
7 as to the truth of the remaining allegations in paragraph 23 of the first amended complaint and therefore  
8 denies them.

9           24.     The United States admits that Plaintiff G.M. was in the custody and control of BOP while  
10 incarcerated at FCI Dublin from 2020 to 2023, but currently lacks information sufficient to form a belief  
11 as to the truth of the remaining allegations in paragraph 24 of the first amended complaint and therefore  
12 denies them.

13           25.     The United States admits that Plaintiff A.S. was in the custody and control of BOP while  
14 incarcerated at FCI Dublin from 2020 to 2024, but currently lacks information sufficient to form a belief  
15 as to the truth of the remaining allegations in paragraph 25 of the first amended complaint and therefore  
16 denies them.

17           26.     The United States admits that Plaintiff L.T. was in the custody and control of BOP while  
18 incarcerated at FCI Dublin from 2019 to 2023, but currently lacks information sufficient to form a belief  
19 as to the truth of the remaining allegations in paragraph 26 of the first amended complaint and therefore  
20 denies them.

21           27.     The United States admits that it is in possession and control of FCI Dublin and adjacent  
22 Satellite Camp, and that it has waived sovereign immunity for certain claims under the FTCA, but  
23 currently lacks information sufficient to form a belief as to whether it has waived sovereign immunity  
24 for Plaintiffs' claims, and therefore denies that allegation. The United States denies the remaining  
25 allegations in paragraph 27 of the first amended complaint.

26           28.     Responding to paragraph 28 of the first amended complaint, the United States admits  
27 that, pursuant to 18 U.S.C. § 4042(a)(1)-(3), "[t]he Bureau of Prisons, under the direction of the  
28 Attorney General, shall have charge of the management and regulation of all Federal penal and

1 correctional institutions; provide suitable quarters and provide for the safekeeping, care, and subsistence  
2 of all persons charged with or convicted of offenses against the United States, or held as witnesses or  
3 otherwise; [and] provide for the protection, instruction, and discipline of all persons charged with or  
4 convicted of offenses against the United States.” The United States further admits that authority has  
5 been delegated to the Federal Bureau of Prisons to develop and enforce policies consistent with the  
6 United States Constitution and to ensure that employees of the Federal Bureau of Prisons comply with  
7 this policy. The United States denies all remaining allegations in paragraph 28 of the first amended  
8 complaint.

9         29. The United States admits the first sentence of paragraph 29 of the first amended  
10 complaint. The United States admits that, until May 1, 2024, FCI Dublin operated as a federal female  
11 low security correctional institution with an adjacent minimum security Satellite Camp located at 5701  
12 8th Street, Dublin, California.

13         30. The United States admits the allegations in paragraph 30 of the first amended complaint.

14         31. The United States denies that Art Dulgov is the current Warden of FCI Dublin.

15         32-43. The United States admits the first sentences of paragraphs 32 through 43. As the  
16 remaining allegations in paragraphs 32 through 43 are directed toward individual capacity defendants,  
17 no response from the United States is required. To the extent a response is required, the United States  
18 currently lacks information sufficient to form a belief as to the truth of the remaining allegations in  
19 paragraphs 32 through 43, and therefore denies them.

20         44. The United States currently lacks information sufficient to form a belief as to the truth of  
21 the allegations in paragraph 44 of the first amended complaint, and therefore denies them.

22         45. The United States denies the allegations in paragraph 45 of the first amended complaint.

23         46. The allegations in paragraph 46 of the first amended complaint are directed toward  
24 individual capacity defendants, no response from the United States is required. To the extent a response  
25 is required, the United States denies the allegations paragraph 46 of the first amended complaint.

26         47-58. Responding to the allegations in paragraphs 47 through 58 of the first amended  
27 complaint, the United States asserts that all individual damage claims are presently stayed pursuant to  
28 this Court’s Order at Dkt. 64, and no response is required. To the extent a response is required, the

1 United States currently lacks information sufficient to form a belief as to the truth of the allegations  
2 contained in paragraphs 47 through 58 of the first amended complaint and therefore denies them.

3 59-68. The allegations in paragraph 59 through 68 of the first amended complaint contain  
4 statements of law to which no response is required. To the extent a response is required, the United  
5 States denies the allegations in paragraph 59 through 68 of the first amended complaint.

6 69. The United States denies the allegations in paragraph 69 of the first amended complaint.

7 70. Responding to the allegations in paragraph 70 of the first amended complaint, the United  
8 States admits that former FCI Dublin Warden Ray Garcia was charged and convicted in *United States v.*  
9 *Garcia*, No. CR-21-429-YGR (N.D. Cal.). Any statements made during that trial were transcribed and  
10 reduced to writing, and those transcripts are the best evidence of their contents. The United States denies  
11 the remaining allegations in paragraph 70 of the first amended complaint.

12 71. The United States denies the allegations in paragraph 71 of the first amended complaint.

13 72. Responding to the allegations in paragraph 72 of the first amended complaint, the United  
14 States denies Plaintiffs' characterizations of court documents from the 1990s and 2000s as referenced in  
15 the Senate Report. The court documents are reduced to writing and constitute the best evidence of their  
16 contents. The United States denies the remaining allegations in paragraph 72 of the first amended  
17 complaint.

18 73. Responding to the allegations in paragraph 73 of the first amended complaint, the United  
19 States denies Plaintiffs' characterizations of *Lucas v. White*, 63 F. Supp. 2d 1046, 1051 (N.D. Cal.  
20 1999). Any agreements resulting from that lawsuit have been reduced to writing and constitute the best  
21 evidence of their contents. The United States denies the remaining allegations in paragraph 73 of the  
22 first amended complaint.

23 74. Responding to the allegations in paragraph 74 of the first amended complaint, the United  
24 States admits that the Subcommittee on National Security issued a memorandum titled "Majority Staff  
25 Memorandum, Independent Investigations and Employee Discipline at the Bureau of Prisons" on Jan. 2,  
26 2019 (National Security Memorandum). This memorandum has been reduced to writing and constitutes  
27 the best evidence of its contents. The United States denies the remaining allegations in paragraph 74 of  
28 the first amended complaint.

1           75.     Responding to the allegations in paragraph 75 of the first amended complaint, the United  
2 States denies Plaintiffs' characterizations of the April 2005 Department of Justice, Office of the  
3 Inspector General report. This memorandum has been reduced to writing and constitutes the best  
4 evidence of its contents.

5           76.     Responding to the allegations in paragraph 76 of the first amended complaint, the United  
6 States denies Plaintiffs' characterizations of the media reports referenced in the Senate Report. The  
7 Senate Report has been reduced to writing and constitutes the best evidence of its contents.

8           77.     Responding to the allegations in paragraph 77 of the first amended complaint, the United  
9 States denies Plaintiffs' characterizations of the 2019 Congressional House Subcommittee on National  
10 Security Memorandum. This memorandum has been reduced to writing and constitutes the best evidence  
11 of its contents.

12           78.     Responding to the allegations in paragraph 78 of the first amended complaint, the United  
13 States admits that beginning several years ago, currently and formerly incarcerated people came forward  
14 with allegations of staff sexual abuse at FCI Dublin, and that Victoria R. Peterson sued William  
15 Martinez, et al., in *Peterson v. Martinez*, No. 3:19-CV-1447-WHO (N.D. Cal.). The United States denies  
16 all remaining allegations in paragraph 78 of the first amended complaint.

17           79.     Responding to the allegations in paragraph 79 of the first amended complaint, the United  
18 States admits that it prosecuted former FCI Dublin chaplain James Highhouse in *United States v.*  
19 *Highhouse*, No. 4:22-CR-16-HSG (N.D. Cal.). Court documents from that prosecution constitute the  
20 best evidence of the facts Highhouse admitted to and the sentence he received.

21           80.     Responding to the allegations in paragraph 80 of the first amended complaint, the United  
22 States admits that DOJ has indicted eight BOP employees, including the former warden and chaplain,  
23 for sexual abuse of inmates housed at FCI Dublin. Court documents from those prosecutions constitute  
24 the best evidence of the facts admitted to or proven at trial and the sentences imposed. The United States  
25 admits that BOP has placed additional FCI Dublin staff members on administrative leave pending  
26 investigations into various allegations, including sexual abuse.

27           81-83, 85-87. Responding to the allegations in paragraphs 81 through 83 and 85 through 87 of  
28 the first amended complaint, the United States admits that it prosecuted former FCI Dublin employees



1 Ross Klinger, Ray Garcia, John Bellhouse, Enrique Chavez, Darrell Smith, Andrew Jones, and Nakie  
2 Nunley for various crimes related to the sexual abuse of inmates housed at FCI Dublin. Court documents  
3 from those prosecutions constitute the best evidence of the facts admitted to or proven at trial and the  
4 sentences imposed. The United States denies the remaining allegations in paragraphs 81 through 83 and  
5 85 through 87 of the first amended complaint.

6 84. Responding to the allegations in paragraph 84 of the first amended complaint, the United  
7 States admits that Nicholas Ramos died by suicide while on administrative leave pending investigation  
8 into allegations of sexual abuse of incarcerated women. The United States denies the remaining  
9 allegations in paragraph 84 of the first amended complaint.

10 88-91. Responding to the allegations in paragraphs 88 through 91 of the first amended  
11 complaint, the United States admits only that FCI Dublin was the subject of a 2022 Associated Press  
12 investigation into conditions at the prison. The conclusions of this investigation have been reduced to  
13 writing in various articles, and these articles constitute the best evidence of their contents. The United  
14 States denies the remaining allegations in paragraphs 88 through 91 of the first amended complaint.

15 92. Responding to the allegations in paragraph 92 of the first amended complaint, the United  
16 States admits that U.S. Senators Dick Durbin (D-IL), Chuck Grassley (R-IA), Dianne Feinstein (D-CA)  
17 and Alex Padilla (D-CA), sent a letter to Attorney General (AG) Merrick Garland and Deputy Attorney  
18 General (DAG) Lisa Monaco on December 12, 2022. This letter has been reduced to writing and  
19 constitutes the best evidence of its contents. The United States denies the remaining allegations in  
20 paragraph 92 of the first amended complaint.

21 93-98. Responding to the allegations in paragraphs 93 through 98 of the first amended  
22 complaint, the United States admits that DAG Monaco ordered the creation of a DOJ Working Group  
23 “to review the Department’s approach to rooting out and preventing sexual misconduct by BOP  
24 employees.” The Working Group issued a report in November 2022, which constitutes the best evidence  
25 of its contents. The United States denies any remaining allegations in paragraphs 93 through 98 of the  
26 first amended complaint.

27 99-101. Responding to the allegations in paragraphs 99 through 101 of the first amended  
28 complaint, the United States admits that the Permanent Subcommittee on Investigations issued a report



1 in December 2022 (the Senate Report). The Senate Report has been reduced to writing and constitutes  
 2 the best evidence of its contents. The United States denies all remaining allegations in paragraphs 99  
 3 through 101 of the first amended complaint.

4 102-103. Responding to the allegations in paragraphs 102 and 103 of the first amended  
 5 complaint, the United States admits that Inspector General Michael Horowitz sent a Management  
 6 Advisory Memo to BOP Director Colette Peters on October 12, 2022. This memorandum has been  
 7 reduced to writing and constitutes the best evidence of its contents. The United States denies the  
 8 remaining allegations in paragraphs 102 and 103 of the first amended complaint.

9 104. Responding to the allegations in the first sentence of paragraph 104 of the first amended  
 10 complaint, the United States admits that the Subcommittee on National Security issued a memorandum  
 11 titled “Majority Staff Memorandum, Independent Investigations and Employee Discipline at the Bureau  
 12 of Prisons” on Jan. 2, 2019 (National Security Memorandum). This memorandum has been reduced to  
 13 writing and constitutes the best evidence of its contents. The United States denies the remaining  
 14 allegations in paragraph 104 of the first amended complaint.

15 105-107. Responding to the allegations in paragraphs 105 through 107 of the first amended  
 16 complaint, the United States admits only that BOP has placed numerous FCI Dublin staff members on  
 17 administrative leave pending investigations into various allegations, including sexual abuse. The United  
 18 States denies the remaining allegations in paragraphs 105 through 107 of the first amended complaint.

19 108-113. Responding to the allegations in paragraphs 108 through 113 of the first amended  
 20 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and  
 21 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in  
 22 paragraphs 108 through 113 contain Plaintiffs’ legal conclusions, subjective opinions, speculation, or  
 23 characterizations of fact, to which no response is required. To the extent a response is required, the  
 24 United States currently lacks information sufficient to form a belief as to the truth of the remaining  
 25 allegations in paragraphs 108 through 113 of the first amended complaint and therefore denies them.

26 114-118. Responding to the allegations in paragraphs 114 through 118 of the first amended  
 27 complaint, the United States admits that former FCI Dublin Officer Nakie Nunley was prosecuted and  
 28 sentenced in *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.), and that former FCI Dublin

1 Officer Darrell Smith has been placed on administrative leave and that there is an ongoing criminal  
2 proceeding in which Officer Darrell Wayne Smith is named as Defendant in *United States v. Smith*, Case  
3 No: 23-CR-00110. The remaining allegations in paragraphs 114 through 118 of the first amended  
4 complaint contain Plaintiffs' legal conclusions, subjective opinions, speculation, or characterizations of  
5 fact, to which no response is required. To the extent a response is required, the United States currently  
6 lacks information sufficient to form a belief as to the truth of the remaining allegations in paragraphs  
7 114 through 118 of the first amended complaint and therefore denies them.

8 119-121. Responding to the allegations in paragraphs 119 through 121 of the first amended  
9 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on  
10 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne  
11 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining  
12 allegations in paragraphs 119 through 121 of the first amended complaint contain Plaintiffs' legal  
13 conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is  
14 required. To the extent a response is required, the United States currently lacks information sufficient to  
15 form a belief as to the truth of the remaining allegations in paragraphs 119 through 121 of the first  
16 amended complaint and therefore denies them.

17 122-127. Responding to the allegations in paragraphs 122 through 127 of the first amended  
18 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on  
19 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne  
20 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining  
21 allegations in paragraphs 122 through 127 of the first amended complaint contain Plaintiffs' legal  
22 conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is  
23 required. To the extent a response is required, the United States currently lacks information sufficient to  
24 form a belief as to the truth of the remaining allegations in paragraphs 122 through 127 of the first  
25 amended complaint and therefore denies them.

26 128-132. Responding to the allegations in paragraphs 128 through 132 of the first amended  
27 complaint, the United States admits that FCI Dublin Officer Lawrence Gacad resigned on June 14, 2022.  
28 The remaining allegations in paragraphs 128 through 132 of the first amended complaint contain

1 Plaintiffs' legal conclusions, subjective opinions, speculation, or characterizations of fact, to which no  
2 response is required. To the extent a response is required, the United States currently lacks information  
3 sufficient to form a belief as to the truth of the remaining allegations in paragraphs 128 through 132 of  
4 the first amended complaint and therefore denies them.

5 133-141. Responding to the allegations in paragraphs 133 through 141 of the first amended  
6 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and  
7 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.), former FCI Dublin Officer John  
8 Bellhouse was prosecuted and sentenced in *United States v. Bellhouse*, No. 4:22-CR-66-YGR (N.D.  
9 Cal.), and Officer Nydia Vasquez has been placed on administrative leave. The remaining allegations in  
10 paragraphs 133 through 141 of the first amended complaint contain Plaintiffs' legal conclusions,  
11 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
12 extent a response is required, the United States currently lacks information sufficient to form a belief as  
13 to the truth of the remaining allegations in paragraphs 133 through 141 of the first amended complaint  
14 and therefore denies them.

15 142-144. Responding to the allegations in paragraphs 142 through 144 of the first amended  
16 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and  
17 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in  
18 paragraphs 142 through 144 of the first amended complaint contain Plaintiffs' legal conclusions,  
19 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
20 extent a response is required, the United States currently lacks information sufficient to form a belief as  
21 to the truth of the remaining allegations in paragraphs 142 through 144 of the first amended complaint  
22 and therefore denies them.

23 145-146. The United States currently lacks information sufficient to form a belief as to the truth  
24 of the allegations in paragraphs 145 and 146 of the first amended complaint, and therefore denies them.

25 147-152. Responding to the allegations in paragraphs 147 through 152 of the first amended  
26 complaint, the United States admits that Officer Ronald St. Clair remains on administrative leave. The  
27 remaining allegations in paragraphs 147 through 152 of the first amended complaint contain Plaintiffs'  
28 legal conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is

1 required. To the extent a response is required, the United States currently lacks information sufficient to  
2 form a belief as to the truth of the remaining allegations in paragraphs 147 through 152 of the first  
3 amended complaint and therefore denies them.

4 153-161. The United States currently lacks information sufficient to form a belief as to the truth  
5 of the allegations in paragraphs 153 through 161 of the first amended complaint, and therefore denies  
6 them.

7 162. Responding to the allegations in paragraph 162 of the first amended complaint, the  
8 United States admits that former FCI Dublin Officer Nakie Nunley was prosecuted and sentenced in  
9 *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.). The United States currently lacks  
10 information sufficient to form a belief as to the truth of the remaining allegations in paragraph 162 of the  
11 first amended complaint and therefore denies them.

12 163. Responding to the allegations in paragraph 163 of the first amended complaint, the  
13 United States admits that pursuant to BOP policy, inmates are to be searched after all in-person visits  
14 with the public. The United States currently lacks information sufficient to form a belief as to the truth  
15 of the remaining allegations in paragraph 163 of the first amended complaint and therefore denies them.

16 164. The allegations in Paragraph 164 of the first amended complaint contain Plaintiffs' legal  
17 conclusions, subjective opinions, speculation, or characterizations of fact, to which no response is  
18 required. To the extent a response is required, the United States currently lacks information sufficient to  
19 form a belief as to the truth of the allegations in paragraph 164 of the first amended complaint and  
20 therefore denies them.

21 165-172. The United States currently lacks information sufficient to form a belief as to the truth  
22 of the allegations in paragraphs 165 through 172 of the first amended complaint, and therefore denies  
23 them.

24 173-174. The allegations in paragraphs 173 and 174 of the first amended complaint contain  
25 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.  
26 To the extent a response is required, the United States currently lacks information sufficient to form a  
27 belief as to the truth of the allegations in paragraphs 173 and 174 of the first amended complaint and  
28 therefore denies them.

1           175. The United States currently lacks information sufficient to form a belief as to the truth of  
2 the allegations in paragraph 175 of the first amended complaint, and therefore denies them.

3           176. The allegations in paragraph 176 of the first amended complaint contain Plaintiffs'  
4 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
5 extent a response is required, the United States currently lacks information sufficient to form a belief as  
6 to the truth of the allegations in paragraph 176 of the first amended complaint and therefore denies them.

7           177. The United States currently lacks information sufficient to form a belief as to the truth of  
8 the allegations in paragraph 177 of the first amended complaint, and therefore denies them.

9           178. Responding to the allegations in paragraph 178 of the first amended complaint, the  
10 United States admits that former FCI Dublin Warden Ray Garcia was convicted of sexually abusive  
11 conduct in December 2022. The United States currently lacks information sufficient to form a belief as  
12 to the truth of the remaining allegations in paragraph 178 of the first amended complaint and therefore  
13 denies them.

14           179-180. The United States currently lacks information sufficient to form a belief as to the truth  
15 of the allegations in paragraphs 179 and 180 of the first amended complaint, and therefore denies them.

16           181-182. The allegations in paragraphs 181 and 182 of the first amended complaint contain  
17 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.  
18 To the extent a response is required, the United States currently lacks information sufficient to form a  
19 belief as to the truth of the allegations in paragraphs 181 and 182 of the first amended complaint and  
20 therefore denies them.

21           183. The United States currently lacks information sufficient to form a belief as to the truth of  
22 the allegations in paragraph 183 of the first amended complaint, and therefore denies them.

23           184-185. The allegations in paragraphs 184 and 185 of the first amended complaint contain  
24 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.  
25 To the extent a response is required, the United States currently lacks information sufficient to form a  
26 belief as to the truth of the allegations in paragraphs 184 and 185 of the first amended complaint and  
27 therefore denies them.  
28

1 186-194. The United States currently lacks information sufficient to form a belief as to the truth  
2 of the allegations in paragraphs 186 through 194 of the first amended complaint, and therefore denies  
3 them.

4 195-196. The allegations in paragraphs 195 and 196 of the first amended complaint contain  
5 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.  
6 To the extent a response is required, the United States currently lacks information sufficient to form a  
7 belief as to the truth of the allegations in paragraphs 195 and 196 of the first amended complaint and  
8 therefore denies them.

9 197-205. The United States currently lacks information sufficient to form a belief as to the truth  
10 of the allegations in paragraphs 197 through 205 of the first amended complaint, and therefore denies  
11 them.

12 206. The allegations in paragraph 206 of the first amended complaint contain Plaintiffs'  
13 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
14 extent a response is required, the United States currently lacks information sufficient to form a belief as  
15 to the truth of the allegations in paragraph 206 of the first amended complaint and therefore denies them.

16 207-208. The United States currently lacks information sufficient to form a belief as to the truth  
17 of the allegations in paragraphs 207 and 208 of the first amended complaint, and therefore denies them.

18 209. The allegations in paragraph 209 of the first amended complaint contain Plaintiffs'  
19 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
20 extent a response is required, the United States currently lacks information sufficient to form a belief as  
21 to the truth of the allegations in paragraph 209 of the first amended complaint and therefore denies them.

22 210-222. The United States currently lacks information sufficient to form a belief as to the truth  
23 of the allegations in paragraphs 210 through and 222 of the first amended complaint, and therefore  
24 denies them.

25 223-224. The allegations in paragraph 223 and 224 of the first amended complaint contain  
26 Plaintiffs' subjective opinions, speculation, or characterizations of fact, to which no response is required.  
27 To the extent a response is required, the United States currently lacks information sufficient to form a  
28

1 belief as to the truth of the allegations in paragraph 223 and 224 of the first amended complaint and  
2 therefore denies them.

3       225. Responding to the allegations in paragraph 225 of the first amended complaint, the  
4 United States admits that: a recent survey conducted at FCI Dublin’s adjacent Satellite Camp reflected  
5 presence of mold and asbestos; the asbestos found is “non-friable;” and that mold remediation is  
6 anticipated to commence in forthcoming weeks. The remaining allegations in paragraph 225 of the first  
7 amended complaint contain Plaintiffs’ subjective opinions, speculation, or characterizations of fact, to  
8 which no response is required. To the extent a response is required, the United States currently lacks  
9 information sufficient to form a belief as to the truth of the allegations in paragraph 225 of the first  
10 amended complaint and therefore denies them.

11       227-229. The allegations paragraphs 227 through 229 of the first amended complaint contain  
12 Plaintiffs’ subjective opinions, speculation, or characterizations of fact, to which no response is required.  
13 To the extent a response is required, the United States currently lacks information sufficient to form a  
14 belief as to the truth of the allegations in paragraphs 227 through 229 of the first amended complaint and  
15 therefore denies them.

16       230-236. The United States currently lacks information sufficient to form a belief as to the truth  
17 of the allegations in paragraphs 230 through and 236 of the first amended complaint, and therefore  
18 denies them.

19       237. The allegations in paragraph 237 of the first amended complaint contain Plaintiffs’  
20 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
21 extent a response is required, the United States currently lacks information sufficient to form a belief as  
22 to the truth of the allegations in paragraph 237 of the first amended complaint and therefore denies them.

23       238-244. The United States currently lacks information sufficient to form a belief as to the truth  
24 of the allegations in paragraphs 238 through and 244 of the first amended complaint, and therefore  
25 denies them.

26       245. Responding to the allegations in paragraph 245 of the first amended complaint, the  
27 United States admits that: former FCI Dublin Officer Nakie Nunley was prosecuted and sentenced in  
28 *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.), former FCI Dublin Warden Ray Garcia



1 was prosecuted and sentenced in *United States v. Garcia*, 4:21-CR-429-YGR (N.D. Cal.), former FCI  
2 Dublin Officer Andrew Jones was prosecuted and sentenced in *United States v. Jones*, No. 4:23-CR-  
3 212-HSG (N.D. Cal.), and former FCI Dublin Chaplain James Highhouse was prosecuted in *United*  
4 *States v. Highhouse*, No. 4:22-CR-16-HSG (N.D. Cal.). The remaining allegations in paragraph 245 of  
5 the first amended complaint contain Plaintiffs' subjective opinions, speculation, or characterizations of  
6 fact, to which no response is required. To the extent a response is required, the United States currently  
7 lacks information sufficient to form a belief as to the truth of the remaining allegations in paragraph 245  
8 of the first amended complaint and therefore denies them.

9       246. The allegations in paragraph 246 of the first amended complaint contain Plaintiffs'  
10 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
11 extent a response is required, the United States currently lacks information sufficient to form a belief as  
12 to the truth of the allegations in paragraph 246 of the first amended complaint and therefore denies them.

13       247-252. Responding to the allegations in paragraphs 247 through 252 of the first amended  
14 complaint, the United States admits that the Court certified a class action in this case on March 15, 2024.  
15 Insofar as Plaintiffs' allegations in 247 through 252 of the first amended complaint contain subjective  
16 opinions, speculation, or characterizations of fact, no response is required. To the extent any further  
17 response is required, the United States currently lacks information sufficient to form a belief as to the  
18 truth of the allegations in paragraphs 247 through 252 of the first amended complaint of the first  
19 amended complaint and therefore denies them.

20       253. The United States incorporates by reference its responses to paragraphs 1 through 252 of  
21 the first amended complaint as if fully set forth herein.

22       254. The United States admits it has a non-delegable duty to ensure that the conditions of  
23 confinements in facilities operated by BOP employees and contractors are constitutionally adequate.

24       255-257. The United States denies the allegations in paragraphs 255 through 257 of the first  
25 amended complaint.

26       258. The United States incorporates by reference its responses to paragraphs 1 through 257 of  
27 the first amended complaint as if fully set forth herein.

1           259. The United States admits it has a non-delegable duty to ensure that the conditions of  
2 confinements in facilities operated by BOP employees and contractors are constitutionally adequate.

3           260-262. The United States denies the allegations in paragraphs 260 through 262 of the first  
4 amended complaint.

5           263. The United States incorporates by reference its responses to paragraphs 1 through 263 of  
6 the first amended complaint as if fully set forth herein.

7           264. The United States admits it has a non-delegable duty to ensure that the conditions of  
8 confinements in facilities operated by BOP employees and contractors are constitutionally adequate.

9           265-267. The United States denies the allegations in paragraphs 265 through 267 of the first  
10 amended complaint.

11           268. The United States incorporates by reference its responses to paragraphs 1 through 267 of  
12 the first amended complaint as if fully set forth herein.

13           269-271. The United States denies the allegations in paragraphs 269 through 271 of the first  
14 amended complaint.

15           272. The allegations in paragraph 246 of the first amended complaint contain Plaintiffs'  
16 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
17 extent a response is required, the United States denies this is a cognizable claim under *Bivens v. Six*  
18 *Unknown Named Agents*, 403 U.S. 388 (1971).

19           273. The allegations in paragraph 273 of the first amended complaint set forth Plaintiffs'  
20 Prayer for Relief, to which no response is required. To the extent these paragraphs are deemed to contain  
21 allegations of fact or an entitlement to relief, the United States denies that Plaintiffs are entitled to the  
22 requested relief, or to any relief.

23           274. The United States incorporates by reference its responses to paragraphs 1 through 273 of  
24 the first amended complaint as if fully set forth herein.

25           275. Responding to the allegations in paragraph 275 of the first amended complaint, the  
26 United States admits that former FCI Dublin Officer Lawrence Gacad resigned on June 14, 2022. The  
27 remaining allegations in paragraph 275 of the first amended complaint contain Plaintiffs' subjective  
28 opinions, speculation, or characterizations of fact, to which no response is required. To the extent any

1 further response is required, the United States currently lacks information sufficient to form a belief as  
2 to the truth of the allegations in paragraph 275 of the first amended complaint of the first amended  
3 complaint and therefore denies them.

4 276. Responding to the allegations in paragraph 276 of the first amended complaint, the  
5 United States admits that FCI Dublin Lieutenant Stephen Putnam retired on December 29, 2023, without  
6 the Office of the Inspector General finding that he had committed any wrongdoing during his BOP  
7 tenure. The remaining allegations in paragraph 276 of the first amended complaint contain Plaintiffs'  
8 subjective opinions, speculation, or characterizations of fact, to which no response is required. To the  
9 extent any further response is required, the United States currently lacks information sufficient to form a  
10 belief as to the truth of the allegations in paragraph 276 of the first amended complaint and therefore  
11 denies them.

12 277. The allegations in paragraph 277 of the first amended complaint contain Plaintiffs'  
13 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent a  
14 response is required, the United States currently lacks information sufficient to form a belief as to the  
15 truth of the allegations in paragraph 277 of the first amended complaint and therefore denies them.

16 278. The United States denies the allegations in paragraph 278 of the first amended complaint.

17 279. The allegations in paragraph 279 of the first amended complaint set forth Plaintiffs'  
18 Prayer for Relief, to which no response is required. To the extent these paragraphs are deemed to contain  
19 allegations of fact or an entitlement to relief, the United States denies that Plaintiffs are entitled to the  
20 requested relief, or to any relief.

21 280. The United States incorporates by reference its responses to paragraphs 1 through 279 of  
22 the first amended complaint as if fully set forth herein.

23 281. Responding to the allegations in paragraph 281 of the first amended complaint, the  
24 United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and sentenced in  
25 *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in paragraph 281  
26 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and legal conclusions,  
27 to which no response is required. To the extent any further response is required, the United States  
28

1 currently lacks information sufficient to form a belief as to the truth of the allegations in paragraph 281  
2 of the first amended complaint and therefore denies them.

3 282. Responding to the allegations in paragraph 282 of the first amended complaint, the  
4 United States admits: that FCI Dublin Officer Patrick Pool has been on administrative leave since March  
5 8, 2022; and that FCI Dublin Lieutenant Stephen Putnam retired on December 29, 2023, without the  
6 Office of the Inspector General finding that he had committed any wrongdoing during his BOP tenure.  
7 The remaining allegations in paragraph 282 of the first amended complaint contain Plaintiffs'  
8 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent  
9 any further response is required, the United States currently lacks information sufficient to form a belief  
10 as to the truth of the allegations in paragraph 282 of the first amended complaint and therefore denies  
11 them.

12 283. The allegations in paragraph 283 of the first amended complaint contain Plaintiffs'  
13 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent a  
14 response is required, the United States currently lacks information sufficient to form a belief as to the  
15 truth of the allegations in paragraph 283 of the first amended complaint and therefore denies them.

16 284. The United States denies the allegations in paragraph 284 of the first amended complaint.

17 285. The allegations in paragraph 285 of the first amended complaint set forth Plaintiffs'  
18 Prayer for Relief, to which no response is required. To the extent these paragraphs are deemed to contain  
19 allegations of fact or an entitlement to relief, the United States denies that Plaintiffs are entitled to the  
20 requested relief, or to any relief.

21 286. The United States incorporates by reference its responses to paragraphs 1 through 285 of  
22 the first amended complaint as if fully set forth herein.

23 287-299. The allegations in paragraphs 287 through 299 of the first amended complaint contain a  
24 summation of the Trafficking Victims Protection Act ("TVPA"), to which no response is required;  
25 however, the text of the statute is the best evidence of its contents. To the extent a response is required,  
26 the United States denies the allegations contained in paragraphs 287 through 299 of the first amended  
27 complaint, or that Plaintiffs are entitled to relief based on this statute.  
28

1           300-310. Responding to the allegations in paragraphs 300 through 310 of the first amended  
2 complaint, the United States admits that FCI Dublin Officer Lawrence Gacad resigned on June 14, 2022.  
3 The remaining allegations in paragraphs 300 through 310 of the first amended complaint contain  
4 Plaintiffs' characterizations of this lawsuit and legal conclusions, to which no response is required. To  
5 the extent any further response is required, the United States currently lacks information sufficient to  
6 form a belief as to the truth of the allegations in paragraphs 300 through 310 of the first amended  
7 complaint and therefore denies them.

8           311. Responding to the allegations in paragraph 311 of the first amended complaint, the  
9 United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December 29, 2023,  
10 without the Office of the Inspector General finding that he had committed any wrongdoing during his  
11 BOP tenure; that FCI Dublin Officer Nydia Vasquez was placed on administrative leave on March 19,  
12 2023; that FCI Dublin Officer Kayla Serrano is presently working; and that FCI Dublin Lieutenant  
13 Cynthia Jones was placed on administrative leave on April 10, 2023. The remaining allegations in  
14 paragraph 311 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and  
15 legal conclusions, to which no response is required. To the extent any further response is required, the  
16 United States currently lacks information sufficient to form a belief as to the truth of the allegations in  
17 paragraph 311 of the first amended complaint and therefore denies them.

18           312-313. The allegations in paragraphs 312 and 313 of the first amended complaint contain  
19 Plaintiffs' characterization of this lawsuit and legal conclusions, to which no response is required. To the  
20 extent a response is required, the United States currently lacks information sufficient to form a belief as  
21 to the truth of the allegations in paragraphs 312 and 313 of the first amended complaint and therefore  
22 denies them.

23           314-327. Responding to the allegations in paragraphs 314 through 327 of the first amended  
24 complaint, the United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December  
25 29, 2023, without the Office of the Inspector General finding that he had committed any wrongdoing  
26 during his BOP tenure; that FCI Dublin Officer Nydia Vasquez was placed on administrative leave on  
27 March 19, 2023; that FCI Dublin Officer Kayla Serrano is presently working; and that FCI Dublin  
28 Lieutenant Cynthia Jones was placed on administrative leave on April 10, 2023. The remaining

1 allegations in paragraphs 314 through 327 of the first amended complaint contain Plaintiffs'  
2 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent  
3 any further response is required, the United States currently lacks information sufficient to form a belief  
4 as to the truth of the allegations in paragraphs 314 through 327 of the first amended complaint and  
5 therefore denies them.

6 328-336. Responding to the allegations in paragraphs 328 through 336 of the first amended  
7 complaint, the United States admits that former FCI Dublin Officer John Bellhouse was prosecuted and  
8 sentenced in *United States v. Bellhouse*, No. 4:22-CR-66-YGR (N.D. Cal.), and former FCI Dublin  
9 Officer Andrew Jones was prosecuted and sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG  
10 (N.D. Cal.). The remaining allegations in paragraphs 328 through 336 of the first amended complaint  
11 contain Plaintiffs' characterization of this lawsuit and legal conclusions, to which no response is  
12 required. To the extent any further response is required, the United States currently lacks information  
13 sufficient to form a belief as to the truth of the allegations in paragraphs 328 through 336 of the first  
14 amended complaint and therefore denies them.

15 337-342. Responding to the allegations in paragraphs 337 through 342 of the first amended  
16 complaint, the United States admits that FCI Dublin Officer Kayla Serrano is presently working. The  
17 remaining allegations in paragraphs 337 through 342 of the first amended complaint contain Plaintiffs'  
18 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent  
19 any further response is required, the United States currently lacks information sufficient to form a belief  
20 as to the truth of the allegations in paragraphs 337 through 342 of the first amended complaint and  
21 therefore denies them.

22 343-353. Responding to the allegations in paragraphs 343 through 353 of the first amended  
23 complaint, the United States admits that former FCI Dublin Officer Nakie Nunley was prosecuted and  
24 sentenced in *United States v. Nunley*, No. 4:23-CR-213-HSG (N.D. Cal.). The remaining allegations in  
25 paragraphs 343 through 353 of the first amended complaint contain Plaintiffs' characterization of this  
26 lawsuit and legal conclusions, to which no response is required. To the extent any further response is  
27 required, the United States currently lacks information sufficient to form a belief as to the truth of the  
28 allegations in paragraphs 343 through 353 of the first amended complaint and therefore denies them.

1 354-365. Responding to the allegations in paragraphs 354 through 365 of the first amended  
2 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on  
3 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne  
4 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining  
5 allegations in paragraphs 354 through 365 of the first amended complaint contain Plaintiffs'  
6 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent  
7 any further response is required, the United States currently lacks information sufficient to form a belief  
8 as to the truth of the allegations in paragraphs 354 through 365 of the first amended complaint and  
9 therefore denies them.

10 366-371. Responding to the allegations in paragraphs 366 through 371 of the first amended  
11 complaint, the United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December  
12 29, 2023, without the Office of the Inspector General finding that he had committed any wrongdoing  
13 during his BOP tenure; that FCI Dublin Officer Nydia Vasquez was placed on administrative leave on  
14 March 19, 2023; that FCI Dublin Officer Kayla Serrano is presently working; that FCI Dublin Officer  
15 Denzil Shirley is presently working; and that FCI Dublin Lieutenant Cynthia Jones was placed on  
16 administrative leave on April 10, 2023. The remaining allegations in paragraphs 366 through 371 of the  
17 first amended complaint contain Plaintiffs' characterization of this lawsuit and legal conclusions, to  
18 which no response is required. To the extent any further response is required, the United States currently  
19 lacks information sufficient to form a belief as to the truth of the allegations in paragraphs 366 through  
20 371 of the first amended complaint and therefore denies them.

21 372-392. Responding to the allegations in paragraphs 372 through 392 of the first amended  
22 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on  
23 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne  
24 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining  
25 allegations in paragraphs 372 through 392 of the first amended complaint contain Plaintiffs'  
26 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent  
27 any further response is required, the United States currently lacks information sufficient to form a belief  
28



1 as to the truth of the allegations in paragraphs 372 through 392 of the first amended complaint and  
2 therefore denies them.

3 393-398. Responding to the allegations in paragraphs 393 through 398 of the first amended  
4 complaint, the United States admits: that FCI Dublin Officer Darren Lewis is presently working; and  
5 that FCI Dublin Lieutenant Cynthia Jones was placed on administrative leave on April 10, 2023. The  
6 remaining allegations in paragraphs 393 through 398 of the first amended complaint contain Plaintiffs'  
7 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent  
8 any further response is required, the United States currently lacks information sufficient to form a belief  
9 as to the truth of the allegations in paragraphs 393 through 398 of the first amended complaint and  
10 therefore denies them.

11 399-420. Responding to the allegations in paragraphs 399 through 420 of the first amended  
12 complaint, the United States admits that former FCI Dublin Officer Andrew Jones was prosecuted and  
13 sentenced in *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in  
14 paragraphs 399 through 420 of the first amended complaint contain Plaintiffs' characterization of this  
15 lawsuit and legal conclusions, to which no response is required. To the extent any further response is  
16 required, the United States currently lacks information sufficient to form a belief as to the truth of the  
17 allegations in paragraphs 399 through 420 of the first amended complaint and therefore denies them.

18 421-426. Responding to the allegations in paragraphs 421 through 426 of the first amended  
19 complaint, the United States admits: that FCI Dublin Lieutenant Stephen Putnam retired on December  
20 29, 2023, without the Office of the Inspector General finding that he had committed any wrongdoing  
21 during his BOP tenure; that FCI Dublin Officer Patrick Pool has been on administrative leave since  
22 March 8, 2022; and that former FCI Dublin Officer Andrew Jones was prosecuted and sentenced in  
23 *United States v. Jones*, No. 4:23-CR-212-HSG (N.D. Cal.). The remaining allegations in paragraphs 421  
24 through 426 of the first amended complaint contain Plaintiffs' characterization of this lawsuit and legal  
25 conclusions, to which no response is required. To the extent any further response is required, the United  
26 States currently lacks information sufficient to form a belief as to the truth of the allegations in  
27 paragraphs 421 through 426 of the first amended complaint and therefore denies them.  
28

1           427-447. Responding to the allegations in paragraphs 427 through 447 of the first amended  
2 complaint, the United States admits that former FCI Dublin Officer Darrell Smith has been placed on  
3 administrative leave and that there is an ongoing criminal proceeding in which Officer Darrell Wayne  
4 Smith is named as Defendant in *United States v. Smith*, Case No: 23-CR-00110. The remaining  
5 allegations in paragraphs 427 through 447 of the first amended complaint contain Plaintiffs'  
6 characterization of this lawsuit and legal conclusions, to which no response is required. To the extent  
7 any further response is required, the United States currently lacks information sufficient to form a belief  
8 as to the truth of the allegations in paragraphs 427 through 447 of the first amended complaint and  
9 therefore denies them.

10           448. The United States incorporates by reference its responses to paragraphs 1 through 447 of  
11 the first amended complaint as if fully set forth herein.

12           449-458. The allegations in paragraphs 449 through 458 of the first amended complaint contain a  
13 summation of the TVPA, to which no response is required; however, the text of the statute is the best  
14 evidence of its contents. To the extent a response is required, the United States denies the allegations  
15 contained in paragraphs 449 through 458 of the first amended complaint, or that Plaintiffs are entitled to  
16 relief based on this statute.

17           459. The United States incorporates by reference its responses to paragraphs 1 through 458 of  
18 the first amended complaint as if fully set forth herein.

19           460-464. The United States denies the allegations in paragraphs 460 through 464 of the first  
20 amended complaint.

21           465. The United States incorporates by reference its responses to paragraphs 1 through 464 of  
22 the first amended complaint as if fully set forth herein.

23           466-472. The United States denies the allegations in paragraphs 466 through 472 of the first  
24 amended complaint.

25           473. The United States incorporates by reference its responses to paragraphs 1 through 472 of  
26 the first amended complaint as if fully set forth herein.

27           474-480. The United States denies the allegations in paragraphs 474 through 480 of the first  
28 amended complaint.

1           481. The United States incorporates by reference its responses to paragraphs 1 through 480 of  
2 the first amended complaint as if fully set forth herein.

3           482. The United States denies the allegations in paragraph 482 of the first amended complaint.

4           483. The allegations in paragraph 483 of the first amended complaint contain a summation of  
5 the Tom Bane Civil Rights Act under California law, to which no response is required; however, the text  
6 of the Act is the best evidence of its contents. To the extent a response is required, the United States  
7 denies the allegations contained in paragraph 483 of the first amended complaint.

8           484-487. The United States denies the allegations in paragraphs 484 through 487 of the first  
9 amended complaint.

10          488. The United States incorporates by reference its responses to paragraphs 1 through 487 of  
11 the first amended complaint as if fully set forth herein.

12          489-494. The United States denies the allegations in paragraphs 489 through 494 of the first  
13 amended complaint.

14          495. The United States incorporates by reference its responses to paragraphs 1 through 494 of  
15 the first amended complaint as if fully set forth herein.

16          496. The United States denies the allegations in paragraph 496 of the first amended complaint.

17          497. The allegations in paragraph 483 of the first amended complaint contain Plaintiffs'  
18 characterization of the elements of invasion of privacy under California law, to which no response is  
19 required; however, the text outlining the elements is the best evidence of its contents. To the extent a  
20 response is required, the United States denies the allegations contained in paragraph 497 of the first  
21 amended complaint.

22          498-501. The United States denies the allegations in paragraphs 498 through 501 of the first  
23 amended complaint.

24          502. The United States incorporates by reference its responses to paragraphs 1 through 501 of  
25 the first amended complaint as if fully set forth herein.

26          503. The United States denies the allegations in paragraph 503 of the first amended complaint.

27          504. The United States admits the allegations in Paragraph 504.

28          505. The United States admits the allegations in Paragraph 505.

506. The United States denies the allegations in paragraph 506 of the first amended complaint.

507. The United States admits the allegations in Paragraph 507.

508-523. The United States denies the allegations in paragraphs 508 through 523 of the first amended complaint.

524. The United States incorporates by reference its responses to paragraphs 1 through 523 of the first amended complaint as if fully set forth herein.

525-529. The United States denies the allegations in paragraphs 525 through 529 of the first amended complaint.

530-537. Responding to the allegations in paragraphs 530 through 537 of the first amended complaint, the United States admits that this Court certified a class action for those FCI Dublin Adults-in-Custody (AIC) on March 15, 2024 (dkt. 222) or transferred anytime thereafter to FCI Dublin until the last AIC left the facility on May 1, 2024. The remaining allegations in paragraphs 530 through 537 of the first amended complaint set forth Plaintiffs' prayer for relief, to which no response is required. To the extent a response is required, the United States denies that Plaintiffs are entitled to the requested relief, or any relief.

#### AFFIRMATIVE DEFENSES

1. Plaintiffs' first amended complaint fails to state a claim upon which relief can be granted.

2. The Court lacks subject matter jurisdiction over some or all of Plaintiffs' claims.

3. Some or all of Plaintiffs' claims are barred by the doctrine of sovereign immunity.

4. Plaintiffs' claims are barred to the extent that they are based on the exercise or performance, or the failure to exercise or perform, a discretionary function or duty. 28 U.S.C. § 2680(a).

5. Plaintiffs' claims are barred to the extent they arise out of misrepresentation or deceit. 28 U.S.C. § 2680(h).

6. Claims arising more than two years prior to the filing of the administrative claim, if any, are time barred.

7. The United States is not liable for any pre-existing, intervening, or superseding acts or occurrences that caused, compounded, or created the injuries alleged.

1           8.       The United States, through its employees, agents, and servants, acted at all relevant times  
2 with due care and diligence in all matters alleged in the first amended complaint and acted within the  
3 applicable standard of care.

4           9.       The United States did not breach any legal duty owed to Plaintiff.

5           10.      The United States is not liable for any negligence of independent contractors who may  
6 have treated Plaintiffs. 28 U.S.C. § 2671.

7           11.      Any injury, damage, or loss to Plaintiffs was not proximately caused or contributed to by  
8 any wrongful or negligent act or omissions on the part of an agent or employee of the United States.

9           12.      In the event the United States is found to have been negligent, which negligence is  
10 denied, the superseding and intervening negligence of third parties or cross-defendants, for whom the  
11 United States cannot be held liable, broke any causal connection between the United States' negligence  
12 and Plaintiffs' alleged injuries, cutting off the legal effect of the United States' negligence.

13          13.      In the event that the United States is found to have been negligent, which negligence is  
14 denied, the negligence of Plaintiff, third parties, or cross-defendants was the proximate cause of and  
15 contributed to any alleged injuries or damages sustained, thereby barring recovery, or alternatively,  
16 mandating that any recovery be proportionately reduced.

17          14.      Plaintiffs' damages, if any, are limited to the extent they have failed to mitigate damages.

18          15.      The United States is entitled to an offset for any medical care it provided to Plaintiffs or  
19 any benefits as a result of the subject matter of this action.

20          16.      Pursuant to 28 U.S.C. § 2675(b), Plaintiffs' damages, if any, are limited to the amount of  
21 the sum certain demanded in their administrative claims.

22          17.      Plaintiffs' recovery is limited to the damages recoverable under the FTCA.

23          18.      The United States is not liable for pre-judgment interest under 28 U.S.C. § 2674.

24          19.      Under 28 U.S.C. §§ 2412(d)(1)(A), 2678, Plaintiffs cannot recover attorney's fees from  
25 the United States, and attorneys' fees may not exceed 25 per centum of any judgment or settlement.

26          20.      Plaintiff's damages, if any, must be offset by any benefits provided to Plaintiffs by the  
27 United States or funded by the United States through any other entity.

28          21.      Plaintiffs are not entitled to a jury trial. 28 U.S.C. § 2402.

22. The United States further alleges that it has insufficient knowledge or information on which to form a belief as to whether it has any additional defenses available, and reserves the right to amend its answer to Plaintiffs' first amended complaint to assert additional defenses in the event discovery or other developments indicate it would be appropriate.

### **ANSWER TO CROSS-COMPLAINT (DKT. 35)**

1. The United States currently lacks information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the cross-complaint and therefore denies them.

2-3. The United States admits the allegations in paragraphs 2 and 3 of the cross-complaint.

4. The United States denies the allegations in paragraph 4 of the cross-complaint.

5-15. The United States admits the first sentences of paragraphs 5 through 15 of the cross-complaint. The United States denies the second sentences of paragraphs 5 through 15 of the cross-complaint.

16-17. The allegations in paragraphs 16 and 17 of the cross-complaint contain cross-defendant Gacad's characterization of this lawsuit to which no response is required. To the extent a response is required, the United States denies the allegations in paragraphs 16 and 17 of the cross-complaint.

18-22. Responding to the allegations in paragraphs 18 through 22 of the cross-complaint, the United States admits that federal district courts: have original jurisdiction over all civil actions arising under the Constitution; in a case of actual controversy within its jurisdiction, may declare the rights and other legal relations of any interested party seeking such declaration; have exclusive jurisdiction over claims brought against the United States under 28 U.S.C. § 1346(b) and §§ 2671-80 (the Federal Tort Claims Act), and admits that the FTCA provides a limited waiver of the United States' sovereign immunity when its employees are negligent in limited circumstances. But the United States denies Plaintiffs' have established jurisdiction in this case. The United States denies that venue is appropriate in this Court. Finally, the United States denies that 28 U.S.C. §§ 1332 or 1367(a) apply to claims brought under the FTCA.

23-365. The allegations in paragraphs 23 through 365 of the cross-complaint contain quotes from Plaintiffs' Complaint (doc. 1), which is the best evidence of its contents, and to which no response is required. To the extent a response is required, the United States refers the Court to its responses to the

1 quoted allegations and requests for relief. The United States specifically denies any allegations in  
2 paragraphs 23 through 365 of the cross-complaint not specifically admitted.

3 366. The United States incorporates by reference its responses to paragraphs 1 through 365 of  
4 the cross-complaint as if fully set forth herein.

5 367-368. Responding to the allegations in paragraphs 367 and 368, the United States admits that  
6 cross-defendant Gacad is entitled to seek contribution from individual cross-defendants and cross-  
7 defendant United States.

8 369. The United States denies the allegations and prayer for relief in paragraph 369 of the  
9 cross-complaint.

10 370. The United States incorporates by reference its responses to paragraphs 1 through 369 of  
11 the cross-complaint as if fully set forth herein.

12 371-374. Responding to the allegations in paragraphs 371 and 374, the United States admits that  
13 cross-defendant Gacad is entitled to seek indemnification from individual cross-defendants and cross-  
14 defendant United States.

15 375. The United States denies the allegations and prayer for relief in paragraph 375 of the  
16 cross-complaint.

17 376. The United States incorporates by reference its responses to paragraphs 1 through 375 of  
18 the cross-complaint as if fully set forth herein.

19 377-379. The United States denies the allegations and prayer for relief in paragraphs 377-379 of  
20 the cross-complaint.

21 The United States specifically denies that cross-defendant Gacad is entitled to any relief  
22 requested in his prayer for relief.

23 The United States denies any allegation not specifically admitted herein.

24 WHEREFORE, having fully answered, the United States respectfully requests that:

- 25 1. Plaintiffs take nothing by reason of their first amended complaint;
- 26 2. Judgment be entered in favor of the United States and against Plaintiffs; and
- 27 3. The Court grant such other relief as it deems just and proper.



DATED this 6th day of May, 2024.

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